

**Statement of Raul Yzaguirre, President  
National Council of La Raza  
On  
Election Reform**

**I. INTRODUCTION**

Chairman McCain, Ranking Minority Member Hollings, and the Committee, on behalf of the National Council of La Raza (NCLR), thank you for holding this hearing on an issue that is very important to the Latino community. NCLR is the nation's largest national Latino civil rights organization, which is an "umbrella organization" for more than 250 local affiliated community-based organizations (CBOs) and about 30,000 individual associate members. In addition to providing capacity-building assistance to our affiliates and essential information to our individual associates, NCLR serves as a voice for all Hispanic subgroups in all regions of the country.

I appreciate the opportunity to appear before you today to support a thorough revision of the voting process. The right to vote is a fundamental civil right for all Americans, and NCLR supports efforts to remove barriers that inhibit Americans, especially the most vulnerable in our society, from exercising their right to vote.

All Americans are concerned about the election irregularities observed during the 2000 presidential election. Hispanic Americans share these concerns. Although they have not been as widely-publicized as the experiences of some communities, we believe that too many Latinos were unfairly denied the opportunity to vote, or had their votes discarded, through no fault of their own. Since the media spotlight was cast on Florida's electoral process, we have learned about outdated voting machines, understaffed polling places, inexperienced poll workers, and confusion that left some registered voters' names off the books. We learned about polling places that moved without adequate notice – literally in the middle of the night – leaving hundreds of voters without knowledge of where to go to cast their vote. Some duly registered voters whose names were improperly purged from the rolls were denied an affidavit, or they were not offered one, and thus were unfairly excluded from the process.

Language minority voters who requested the assistance of a bilingual volunteer or materials at the polls, as is their right in many jurisdictions, were denied such assistance. Reports indicate that in some counties, minority voters were asked for photo identification while White voters were not required to show any form of ID. Many polls in disproportionately minority precincts were closed even though voters were still in line; other polls had lines so long that some voters left the polling places without casting their vote.

Moreover, we believe that the discrepancies observed in Florida were not limited to that state. Many other states with close elections, New Mexico for example, have some jurisdictions that use voting machines and procedures similar to those found wanting in Florida. Furthermore, we

have reviewed evidence of irregularities found in other states, like New York, which disproportionately affected language minority voters. We suspect that these irregularities represent the proverbial “tip of the iceberg,” waiting to be uncovered in subsequent close elections unless they are addressed now.<sup>1</sup>

## **II.HISPANIC AND LANGUAGE MINORITY CONCERNS WITH THE 2000 ELECTION**

The right to vote is guaranteed to all U.S. citizens by the Fifteenth Amendment to the U.S. Constitution. Every voter has the right to cast an informed and effective vote. This right is extended to all people including those for whom English is not their mother tongue. Language minorities are ensured protection and full participation in the electoral process by two separate provisions of the Voting Rights Act of 1965 – Section 203 and Section 4(f)(4).<sup>2</sup> Despite these provisions of current law, there is evidence that some jurisdictions do not comply with federal language assistance provisions. The following selected examples illustrate the pervasiveness of the lack of compliance with the language assistance provisions of the Voting Rights Act.

In testimony before the U.S. Commission on Civil Rights in January 2001, the Puerto Rican Legal Defense and Education Fund reported the results of its investigation in Florida; specifically, it found that:

- Many registered Latino voters who had voted in immediate past elections went to the polls and were told their names could not be found on the rolls. Consequently, they were not allowed to vote, were sent home, or were required to wait many hours while election poll workers sought unsuccessfully to contact supervisors for approval to allow these voters to cast their votes. In other cases, their grievances were ignored.

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<sup>1</sup> NCLR is grateful for the assistance of the Asian American Legal Defense Education Fund (AALDEF), the Puerto Rican Legal Defense and Education Fund (PRLDEF), and the U.S. Commission on Civil Rights in preparing this testimony. NCLR is working in coalition with AALDEF, PRLDEF, the Mexican American Legal Defense and Educational Fund (MALDEF), the National Asian Pacific American Legal Consortium (NAPALC), the National Association of Latino Elected and Appointed Officials, the Asian Law Caucus, the League of United Latin American Citizens, the National Puerto Rican Coalition, the Asian Pacific American Legal Center of Southern California, and other organizations to monitor developments on election reform. The views cited herein are those only of NCLR, and may not represent the opinions of other organizations.

<sup>2</sup> In 1975 Congress added minority language provisions to the Voting Rights Act, and recognized that large numbers of American citizens who primarily spoke language other than English had been effectively excluded from participation in the electoral process. The denial of the right to vote among language minority citizens was “directly related to the unequal educational opportunities afforded them, resulting in high illiteracy and low voting participation.” 42 U.S.C. Sec. 1973aa-1(a).

- Many voters not found on the rolls were not able to cast their vote. In violation of both federal and Florida laws, election poll workers often did not offer the use of the alternative method of voting the paper affirmation ballot.
- Some registered Latino voters went to their usual voting poll sites only to be told that their names were not found. They were sent to other polling sites miles away, where again, their names did not appear on the rolls. Voters became frustrated, confused, and gave up --leaving without voting.
- Many new Latino voters who had registered in a timely manner were not processed by government agencies. Because they did not receive their voter registration identity cards and were not given an assignment of a voting poll site, they could not vote.
- Latino voters who went to the polls after work and arrived between 15 and 25 minutes before the official closing hour were told they could not vote and were turned away.
- Spanish-speaking Latino voters received no bilingual assistance at most polling sites. In most precincts, the entire election staff spoke English only, and could not assist language minority voters.
- At certain precincts, election staff told Latino voters to present more pieces of photo identification than non-Hispanics, even though no such legal requirement exists under Florida or federal law.<sup>3</sup>

Mr. Chairman, these kinds of problems were not just limited to Latinos in that state. Other language minorities, including Haitian Americans for whom language assistance is authorized in several jurisdictions under state law, faced serious barriers to voting. Testimony by Marleine Bastien before the NAACP on November 11, 2000, in Florida, describes in great detail the hardship experienced on Election Day by the Haitian American community. Ms. Bastien, a Haitian American community leader in South Florida, spent part of her day on Election Day at a Creole radio station receiving calls from Haitian American voters who called complaining about the treatment they encountered at polling places. Later, Ms. Bastien went to one of the polling places voters complained most about and witnessed the experiences of Haitian American voters; she testified that:

- *Lack of language assistance:* There were forty-seven precincts located in areas where the majority of the population is Haitian or of Haitian descent, for whom Creole is their native language. State law mandated that ballots be printed in

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<sup>33</sup> Testimony of Mr. Jackson Chin, Puerto Rican Legal Defense and Education Fund, before the U.S. Commission on Civil Rights, January 11, 2001.

Creole to serve the Haitian American community living in those forty-seven precincts. At the precinct she visited, Ms. Bastien indicated that many Haitian American voters left without voting because the ballots confused them and there was no one to assist them. Even though there was a Creole-speaking volunteer willing to assist Haitian American voters, the polling place supervisor denied assistance to the voters, claiming that none were entitled to special treatment. Ms. Bastien showed the polling place supervisor a pamphlet printed by the Florida Department of Elections, which authorized a procedure to secure volunteer language assistance to people who needed it, but even then, Haitian American voters were denied assistance.

- *Other irregularities:* Many Haitian Americans voted, or tried to vote, for the first time last year. Many were turned away from polling places because they did not have their voting card. They were asked to show identification documents even though they were registered to vote. Other Haitian American voters were unable to vote because they stepped out of line and they were told they had lost their chance to vote. Many voters were denied their right to vote because their polling place closed earlier than 7:00 p.m., the official closing time. Some Haitian American voters who were able to vote reported that poll workers collected their voting cards instead of instructing them to put the voting cards in the box. People were left to wonder whether their voting cards were discarded. Overall, Ms. Bastien described an atmosphere of intimidation, which greatly discouraged Haitian Americans from casting their vote.<sup>4</sup>

Nor were such irregularities limited to the State of Florida. A report presented on December 22, 2000 to the New York Board of Elections by the Asian American Legal Defense and Education Fund (AALDEF), found that the failure of the Board of Elections to prepare adequately for heavy turnout city-wide created severe problems for Asian-language voters. On November 7, 2000, AALDEF attorneys and volunteers monitored 20 polling sites in New York City; they observed:

- Inaccurate translations. The Chinese translation for “Democrat” and “Republican” were reversed. Paper ballot requested by absentee voters also contained mistakes in the Chinese-language instructions.
- Lack of Chinese interpreters. At polling sites across the city, particularly those places with dense Asian populations, there were insufficient numbers of interpreters to serve Chinese-speaking voters.

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<sup>4</sup>4 Testimony of Ms. Marleine Bastien, before the NAACP, November 11, 2000.

- Chinese characters on the ballot too small to read. Obviously, the fundamental purpose of language translations is undermined when the characters are unreadable on the machine ballot.
- Problems processing voter registration forms. Asian Americans experienced many problems in registering to vote. Many newly-naturalized citizens never received a voter confirmation postcard from the Board of Elections. Thus, they did not know the location of their polling sites. In registering to vote, a number of Asian American voters complained that they were asked to show proof of U.S. citizenship before their voter registration forms would be processed, even though White registrants were not asked for such proof.
- Lack of bilingual materials. A number of polling sites and election districts did not have Chinese language materials or did not use them effectively, as mandated by Section 203 of the Voting Rights Act.<sup>5</sup>

These are clear examples of the lack of compliance of some jurisdictions with the language assistance provisions and other protections of the Voting Rights Act or state law. We believe they are no less important than the irregularities experienced by other Americans in the 2000 election, and we expect that any election reform legislation considered by the Congress should address them.

### **III. ELECTION REFORM**

The National Council of La Raza supports prudent, bipartisan election reform legislation. NCLR has been working in concert with the League of Women Voters and a broad coalition of civil rights organizations interested in improving the electoral process. We believe that several key elements must be included in an election reform bill, which would guarantee that the voting process is accessible to all eligible citizens. These key elements are as follows:

1. Create a substantial, multiyear federal grants program to upgrade election technologies, including:
  - Improved voting equipment and associated counting mechanism
  - State-wide technologies on a uniform basis, such as computerized voter registration lists
3. Protect the Voting Rights Act and the National Voter Registration Act, while ensuring that any activities under the new legislation are consistent with these existing laws.
4. Set federally-approved “best practices” for grant-eligible technologies which include standards to ensure:
  - Accessibility and convenience for the voter, including voters with disabilities

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<sup>5</sup> Letter from AALDEF to Mr. Daniel DeFrancesco, New York Board of Elections, December 22, 2000.

- Accuracy, including safeguards for maintaining voter rolls
  - Nondiscrimination, including full participation of language minorities, racial and ethnic minorities, and people with disabilities
4. Structure priority-setting criteria to ensure that jurisdictions with the most significant problems receive needed funding.

#### **IV. RECOMMENDATIONS**

Consistent with these principles, and speaking from the perspective of the Latino and language minority community, NCLR urges the enactment of legislation that:

- 1) Fully protects and compliance with existing civil rights laws, including the Voting Rights Act and the National Voter Registration Act.
- 2) Encourages the compliance and implementation of language minority assistance provisions of the Voting Rights Act.
- 3) Provides statewide multiyear federal funding for program to upgrade election technologies, including improvement of voting equipment and associated counting mechanism, and technologies on a uniform basis, such as computerized voter registration lists.
- 4) Does not impose additional, unnecessary barriers to voting.

NCLR is eager to see election reform that secures the right of all Americans to vote. Election reform should be guided by current law ensuring access to language minority voters. It should not become a vehicle for adding barriers to any part of the voting process, whether it is voter education, registration, or casting a vote. We urge you to ensure that additional, unnecessary measures to “confirm” or “verify” the eligibility of voters -- which have a clear, disparate impact on Latinos or language minorities -- are not imposed.

In the past we have seen legislation that attempts to cross-reference the citizenship of registered voters and voter registration applicants against Social Security Administration and Immigration and Naturalization Services databases. Because of the well-documented inaccuracies with such databases, reliance on these systems for verification of citizenship will result in massive numbers of “false negatives,” i.e., legitimate U.S. citizens whose status may not be verifiable through computer matches. These systems lack the capacity to confirm the status of significant categories of both native-born and naturalized U.S. citizens. Other proposals would authorize registrars or poll workers to challenge the identity or citizenship status of persons seeking to

register or vote, based on the mere suspicion that such persons may be ineligible. Mr. Chairman and members of the Committee, such proposals would inevitably thwart the fundamental purpose of the election reform effort, which should be focused on expanding – and not further limiting – the ability of all Americans to participate fairly and equally in the electoral process.

I thank the Chairman, the Ranking Member, and the Committee once again for providing NCLR an opportunity to share its views on election reform.